

## *Terms of Reference*

### *for tobacco industry observatories*

#### ***Background***

The Conference of the Parties, at its sixth session, adopted a decision to further promote implementation of Article 5.3 and its Guidelines among the Parties, especially in relation to the industry efforts to undermine tobacco control efforts internationally.<sup>1</sup>

The decision also notes with concern that recent experience indicates that tobacco industry strategies and tactics go beyond national borders, and recognizes the role of international cooperation in preventing interference by the tobacco industry.

With its operative paragraphs, decision FCTC/COP6(14) complements recommendations of Article 5.3 Guidelines, adopted at COP3 in 2008, that call upon Parties to apply a series of measures in their national settings.

Both Article 5.3 Guidelines and the Decision FCTC/COP6(14) recognize the need to monitor implementation of Article 5.3, including the monitoring of the tobacco industry interference and the measures to counteract them.

#### ***Establishment of observatories on tobacco industry monitoring in BRICS countries***

The BRICS countries have made important advances in implementation of the WHO FCTC, to which all of them are Parties, although there are differences in the nature, strength and implementation timeline of the measures required under the Convention. Considering that the BRICS countries are home to more than 40% of the world population, progress in implementation in these countries is of utmost importance. The BRICS countries could take a major role in global tobacco control and lead the way for other emerging economies.

The tobacco industry is present in all five countries and makes efforts to influence decision making. There is need to strengthen implementation of Article 5.3 of the Convention, which should be based on the monitoring of tobacco industry activities, the way it attempts to or interferes with public health policy development, and inform policy making with a view to prevent such interference.

Towards this end, this project is aimed at establishing centres on tobacco industry monitoring in all five BRICS countries. The countries differ considerably in the structure of the tobacco market, the patterns of tobacco use etc. The monitoring observatories will have to take into consideration the peculiarities of the respective countries while at the same time generating findings and know-how that can later be disseminated to other parties to the WHO FCTC.

The centers are to be hosted by academic, public health or similar (e.g, semi-athonomous government-based agencies) institutes in BRICS countries. The responsible institutes

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<sup>1</sup> Decision FCTC/COP6(14) (available at: [http://apps.who.int/gb/fctc/PDF/cop6/FCTC\\_COP6\(14\)-en.pdf](http://apps.who.int/gb/fctc/PDF/cop6/FCTC_COP6(14)-en.pdf))

should not only have relevant expertise and capacities for information exchange and dissemination of results, but should seek to also dedicate resources to ensure the long term sustainability of the observatories. This could be ensured, *inter alia*, by regular contributions from the government. The institutions should not be affiliated with the tobacco industry, or any organizations and individuals that work to further the interests of the tobacco industry.

### ***Functions of the monitoring centres***

The functions of the tobacco industry monitoring centres will be aligned with Article 5.3 and its Guidelines as well as the requirements under Article 21 of the WHO FCTC concerning the reporting obligations of the Parties to the WHO FCTC.

Under the guidance of the Convention Secretariat and/or the relevant experts designated by the Convention Secretariat, the monitoring centres will, *inter alia*:

1. Monitor the activities of the tobacco industry and its front groups that are aimed at preventing, delaying, defeating public health policies with respect to tobacco control in the respective countries
2. Promote and provide public access to research on the activities of the tobacco industry and its allies, including:
  - a. the tactics used
  - b. organisations, institutions, and people the industry collaborates with, including front groups and third parties who act on its behalf
3. Regularly inform decision-makers in the respective countries on the findings of its research and outcomes of its activities and participate in the development and implementation of policies developed by the Government and individual government based agencies in relation to Article 5.3 of the Convention;
4. Raise awareness on tobacco industry efforts to influence policy making at international forums;
5. Advocate the media to ensure coverage of and reveal the tactics of the tobacco industry, thus “denormalizing” tobacco industry activities especially those that are described as “socially responsible” by the tobacco industry, including but not limited to activities described as “corporate social responsibility”;
6. Train government officials, other decision-makers and groups, such as health workers, community and social workers, educators, administrators on matters concerning Article 5.3 and its Guidelines;
7. Facilitate public access, in accordance with national law, to a wide range of information on the tobacco industry as relevant to the objectives of the WHO FCTC in line with Article 12(c) of the Convention;
8. Contribute, by collaborating with the FCTC Focal Point and/or the person responsible for the preparation of the WHO FCTC country implementation report, to the preparation of the said report, that is to be submitted biennially by the Party in line with the requirements of Article 21 of the WHO FCTC and relevant decisions of the Conference of the Parties, by making available relevant information on the implementation of Article 5.3 of the Convention;
9. Share the information collected and the know-how on the monitoring process among the Parties to the Convention, by regularly communicate its findings and disseminate them through the WHO FCTC Information Platform.

Annex 1 provides further details on the indicators that are proposed for monitoring in line with the indicators used in the reporting instrument of the WHO FCTC, Article 5.3 and the recommendations of the Article 5.3 Guidelines.

Further, the operation of the centres should resemble similar international efforts and initiatives.<sup>2</sup>

The operation of the centres should also reflect upon the specifics and peculiarities of the tobacco sector and implementation of Article 5.3 in the respective countries. In this effort, the centres should go beyond, as appropriate, the functions described under points 1-9 above, as appropriate and in accordance with its national circumstances.

### ***The process of establishment and operationalization of the monitoring centres***

The Convention Secretariat will engage with the five BRICS countries to identify the institutions that could host the monitoring centers, including designation of a focal point for this work. This should be followed by the conclusion of a memorandum of understanding with the relevant institute.

The Secretariat and its partners will provide a training for the designated focal points on tobacco industry monitoring.

After the conclusion of the memorandum of understanding and the training of focal points responsible for the management of the centres, the centres will be required to develop an online platform for information dissemination (e.g. a Wiki based system like the one used by [tobaccotactics.org](http://tobaccotactics.org)).

The centres should develop, and share with the Convention Secretariat, biennial workplans that are aligned with relevant decisions of the Conference of the Parties. The Convention Secretariat can provide advice, upon request, for the development of the work plans.

It is crucial that each centre identifies and establishes sustainable mechanisms for collection of information in all or most areas presented in Annex 1 of this document. Each center is expected to secure its own human resource and long term funding to sustain the ongoing activity in the future.

In addition, the new centres are encouraged to engage in a fund-raising exercise to ensure sustainable funding for its activities as needed.

### ***Timeline***

The centres should be operational within 6 months of concluding the memorandum of understanding with the Convention Secretariat.

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<sup>2</sup> One of the most relevant examples is the [tobaccotactics.org](http://tobaccotactics.org) resource of the University of Bath.

## ***Resources and funding provided by the Convention Secretariat***

The centres will be provided with technical and financial (seed grant) assistance to establish their operation. This includes a training as mentioned above as well as a grant to be used for the creation of a web-page, establishing sustainable mechanisms for collection of information about the tobacco industry, tobacco industry interference and the measures employed, if any, to prevent and address such interference, regular training of the personnel that will contribute to the operation of the centre; this may entail, as appropriate, site visits to institutes that have already established such centres and/or visits of experts recognized in the area of tobacco industry interference to the centre; and any other activities as per local needs.

Once established and operational, the observatories should be sustained, through funding provided by the host institute.

### ***Annex 1: Recommendations on Article 5.3***

Recommendations from the Guidelines for implementation of Article 5.3	Non-exhaustive list of items to be monitored
1. Raise awareness on tobacco industry interference	<ul style="list-style-type: none"> <li>• Strategies and tactics used by the tobacco industry to influence decision making, incl. front groups and third party allies</li> <li>• Extent to which the branches of government are informed and educated about tobacco industry strategies and tactics</li> </ul>
2. Establish measures to limit interactions with the tobacco industry	<ul style="list-style-type: none"> <li>• Transparency and public accessibility of information on meetings between government entities and the tobacco industry</li> <li>• Websites where such information is available</li> <li>• Any public hearings in relation to new tobacco control legislation where the tobacco industry participated.</li> </ul>
3. Reject partnerships with the tobacco industry	<ul style="list-style-type: none"> <li>• Existence of partnerships between industry and government entities (e.g. concerning customs, education)</li> <li>• Tobacco industry interference with drafting tobacco control legislation</li> <li>• Existence of or suggestions by the tobacco industry for voluntary codes of conduct as an alternative to binding legislation (e.g. on smoking in public places, the hospitality sector)</li> </ul>
4. Avoid conflicts of interest for government officials and employees	<ul style="list-style-type: none"> <li>• Existence of policies on disclosure and management of conflict of interest</li> <li>• Existence of a code of conduct for government officials</li> <li>• Membership of tobacco industry employees in government bodies, delegations etc.</li> <li>• Financial interests of government institutions, their bodies and members in the tobacco industry</li> <li>• Contributions from the tobacco industry to political parties</li> </ul>
5. Require that the information provided by the tobacco industry be transparent and accurate.	<ul style="list-style-type: none"> <li>• Requirement of periodical reports by the tobacco industry on tobacco production, manufacture, market share, marketing expenditures, lobbying, philanthropy, political contributions; provision of false / misleading information should be penalized</li> <li>• Tobacco industry entities, affiliated organizations and individuals acting on their behalf, including lobbyists and regulations on the disclosure of these entities</li> </ul>

<p>6. Denormalizing and regulating activities described as “socially responsible” by the tobacco industry</p>	<ul style="list-style-type: none"> <li>• Level of awareness of government and public about the true purpose and scope of activities described as socially responsible (i.e. marketing and public relations strategies)</li> <li>• Existence of activities and partnerships with the tobacco industry described as socially responsible (incl. their public disclosure and regulations concerning such partnerships)</li> <li>• Contributions of the tobacco industry to the government or the public sector and regulations concerning the acceptance of such contributions</li> </ul>
<p>7. No preferential treatment to the tobacco industry</p>	<ul style="list-style-type: none"> <li>• Incentives, privileges or benefits to the tobacco industry granted by the government, incl. tax exemptions</li> <li>• Investment in the tobacco industry by government entities</li> </ul>
<p>8. Same treatment of state-owned and other tobacco industry</p>	<ul style="list-style-type: none"> <li>• Separation of setting and implementation of tobacco control policy from overseeing and management of the tobacco industry</li> <li>• Presence of representatives of state-owned tobacco industry in delegations to the COP and subsidiary bodies</li> </ul>